

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 17

HOUSE BILL 2120

AN ACT

AMENDING SECTION 23-1361, ARIZONA REVISED STATUTES; RELATING TO LABOR
RELATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-1361, Arizona Revised Statutes, is amended to
3 read:

4 23-1361. Blacklist; definition; exceptions; privileged
5 communications; immunity

6 A. "Blacklist" means any understanding or agreement whereby the names
7 of any person or persons, list of names, descriptions or other means of
8 identification shall be spoken, written, printed or implied for the purpose
9 of being communicated or transmitted between two or more employers of labor,
10 or their bosses, foremen, superintendents, managers, officers or other
11 agents, whereby the laborer is prevented or prohibited from engaging in a
12 useful occupation. Any understanding or agreement between employers, or
13 their bosses, foremen, superintendents, managers, officers or other agents,
14 whether written or verbal, comes within the meaning of this section and it
15 makes no difference whether the employers, or their bosses, foremen,
16 superintendents, managers, officers or other agents, act individually or for
17 some company, corporation, syndicate, partnership or society and it makes no
18 difference whether they are employed or acting as agents for the same or
19 different companies, corporations, syndicates, partnerships or societies.

20 B. It is not unlawful for a former employer to provide to a requesting
21 employer, or agents acting in ~~his~~ THE EMPLOYER'S behalf, information
22 concerning a person's education, training, experience, qualifications and job
23 performance to be used for the purpose of evaluating the person for
24 employment. It is not unlawful for a school district to provide information
25 received as a result of a fingerprint check required by section 15-512 to any
26 other school district if requested to do so by the person who was the subject
27 of the fingerprint check. A copy of any written communication regarding
28 employment must be sent by the employer providing the information to the
29 former employee's last known address.

30 C. An employer who in good faith provides information requested by a
31 prospective employer about the reason for termination of a former employee
32 or about the job performance, professional conduct or evaluation of a current
33 or former employee is immune from civil liability for the disclosure or the
34 consequences of providing the information. There is a presumption of good
35 faith if either:

36 1. The employer employs less than one hundred employees and provides
37 only the information authorized by this subsection.

38 2. The employer employs at least one hundred employees and has a
39 regular practice in this state of providing information requested by a
40 prospective employer about the reason for termination of a former employee
41 or about the job performance, professional conduct or evaluation of a current
42 or former employee.

43 D. The presumption of good faith under subsection C of this section
44 is rebuttable by showing that the employer disclosed the information with
45 actual malice or with intent to mislead. This subsection and subsection C

1 of this section do not alter any privileges that exist under common law. For
2 purposes of this subsection, "actual malice" means knowledge that the
3 information was false or was provided with reckless disregard of its truth
4 or falsity.

5 E. Communications concerning employees or prospective employees which
6 THAT are made by an employer or prospective employer, or by a labor
7 organization, to a government body or agency and which THAT are required by
8 law or which THAT are furnished pursuant to written rules or policies of the
9 government body or agency are privileged.

10 F. An employer, including this state and its agencies, a labor
11 organization or an individual is not civilly liable for privileged
12 communications made pursuant to subsection E of this section.

13 G. In response to a request by another bank, savings and loan
14 association, credit union, or escrow agent, COMMERCIAL MORTGAGE BANKER,
15 MORTGAGE BANKER OR MORTGAGE BROKER it is not unlawful for a bank, a savings
16 and loan association, a credit union, or an escrow agent, A COMMERCIAL
17 MORTGAGE BANKER, A MORTGAGE BANKER OR A MORTGAGE BROKER to provide a written
18 employment reference which advises of the applicants' involvement in any
19 theft, embezzlement, misappropriation or other defalcation that has been
20 reported to federal authorities pursuant to federal banking guidelines or
21 reported to the Arizona state banking department by an escrow agent. In
22 order for the immunity provided in subsection H of this section to apply, a
23 copy of the written employment reference must be sent by the institution
24 providing the reference to the last known address of the applicant in
25 question.

26 H. No bank, savings and loan association, credit union, or escrow
27 agent, COMMERCIAL MORTGAGE BANKER, MORTGAGE BANKER OR MORTGAGE BROKER shall
28 be civilly liable for providing such an employment reference unless the
29 information provided is false and the bank, savings and loan association,
30 credit union, or escrow agent, COMMERCIAL MORTGAGE BANKER, MORTGAGE BANKER
31 OR MORTGAGE BROKER providing the false information does so with knowledge and
32 malice.

33 I. A court shall award court costs, attorney fees and other related
34 expenses to any party that prevails in any civil proceeding in which a
35 violation of this section is alleged.

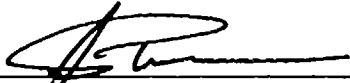
APPROVED BY THE GOVERNOR MARCH 15, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 19, 2001.

Passed the House January 30, 2001,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

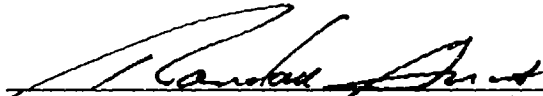

Speaker of the House



Chief Clerk of the House

Passed the Senate March 14, 2001,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting


President of the Senate

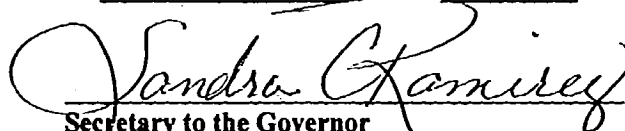

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

15 day of March, 2001,

at 2:24 o'clock P M.


Secretary to the Governor

Approved this 19 day of

March, 2001,

at 3:44 o'clock P M.

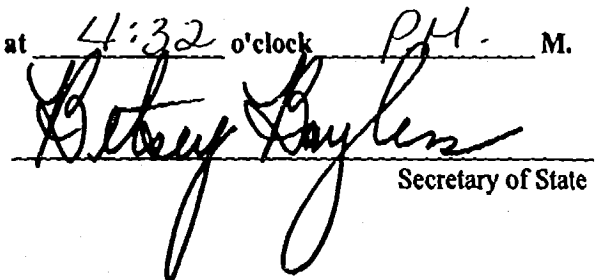

Governor of Arizona

H.B. 2120

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 19th day of March, 2001,

at 4:32 o'clock PM M.


Secretary of State